

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

STEPHEN AGNEW, Individually and for
Others Similarly Situated,

Plaintiff,

v.

FTS INTERNATIONAL SERVICES, LLC,

Defendant.

CASE NO. 5:14-cv-393-FB

COLLECTIVE ACTION

ORDER

The Court, having considered the Unopposed Motion for Court Approval of Notice to Potential Class Members and Consent Form, is of the opinion that the Motion should be GRANTED and hereby approves the Notice to Potential Class Members and Consent Form (“Notice”) attached herein as Exhibit A.

IT IS FURTHER ORDERED that Defendant FTS International Services, LLC shall provide Plaintiff within fourteen (14) days of entry of this Order, the names, addresses, and telephone numbers (if available), of all current and former sand coordinators employed by FTS International Services, LLC, in the past three (3) years.

IT IS FURTHER ORDERED that Plaintiff shall not contact potential plaintiffs by telephone unless the mailed Notice is returned as undeliverable with no forwarding address. Plaintiff must provide the information received regarding undeliverable mail to FTSL. Telephone contact shall be limited to inquiring solely as to whether the potential plaintiff received the Notice and what alternative address the Notice might be sent if the Notice was not received. Telephone communications shall be made using the script attached herein as Exhibit B. The telephone numbers shall not be used to text message the potential class members in any way.

IT IS FURTHER ORDERED that the mailed Notice shall be limited to the Notice and an addressed, postage-paid envelope.

IT IS FURTHER ORDERED that the potential plaintiffs shall be provided sixty (60) days from the date of the first mailing of the Notice to return the consent form and become a plaintiff in this lawsuit. Thirty (30) days after the initial mailing, Plaintiff is allowed to send a reminder Notice by mail under the same conditions as the first Notice. The Notice must be identical to Exhibit A except that the title may read "Reminder Notice to Potential Class Members." The deadline to return the consent form will not be extended by the reminder Notice.

SIGNED on this _____ day of _____, 2014.

FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE

EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

**STEPHEN AGNEW, individually and on
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Plaintiff,

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**FTS INTERNATIONAL SERVICES,
LLC,**

Defendant.

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Docket No. 5:14-cv-00393-FB

**COLLECTIVE ACTION
PURSUANT TO 29 U.S.C. § 216(b)**

NOTICE TO POTENTIAL CLASS MEMBERS

**TO: ALL SAND COORDINATORS EMPLOYED BY FTS INTERNATIONAL SERVICES,
LLC, WITHIN THE PAST THREE YEARS**

**RE: FAIR LABOR STANDARDS ACT LAWSUIT TO RECOVER ALLEGEDLY
UNPAID WAGES**

1. INTRODUCTION

This Notice is to inform you of a collective action lawsuit alleging violations of the Fair Labor Standards Act ("FLSA"). You have the right to participate in this suit if you choose, and this Notice explains how you may do so.

The Court has not considered or made any decisions as to the merits of Plaintiff's claims or Defendant's defenses. This Notice does not imply anything about the merits of this case.

2. DESCRIPTION OF THE LAWSUIT

Stephen Agnew ("Plaintiff") brought this case against Defendant FTS International Services, LLC ("FTSI" or "Defendant") on behalf of himself and other similarly situated, current and former sand coordinators employed by FTSI in the past three (3) years. Plaintiff contends that the sand coordinators qualify for overtime pay under the FLSA and that FTSI failed to pay overtime for all hours that they worked in excess of forty (40) hours a week.

Plaintiff seeks overtime pay for all the time spent working over forty (40) hours in any work week and additional liquidated damages in an amount equal to his unpaid overtime. Plaintiff is also seeking attorneys' fees and costs.

Defendant claims that it complied with all applicable laws and denies any wrongdoing. Defendant maintains that the sand coordinators were properly classified and compensated in compliance with all applicable laws and the FLSA as exempt from any overtime requirements and that it is not liable to the Plaintiff for violations of the FLSA.

3. COMPOSITION OF THE CLASS

Sand coordinators employed by FTSI at any time during the past three (3) years who worked more than forty (40) hours per week.

4. HOW TO PARTICIPATE IN THIS LAWSUIT

If you worked for FTSI as a sand coordinator and want to participate in the lawsuit in order to potentially recover unpaid overtime and liquidated damages that might be owed to you, you must file a consent to be made a party plaintiff with the Clerk of the Court on or before _____.

If you choose to join this lawsuit, it is extremely important that you read, sign, and return the attached Consent to Become a Party Plaintiff. An addressed envelope with paid postage is enclosed for your convenience.

The named plaintiff brought this suit on his behalf and on behalf of those similarly situated to them. Plaintiff's attorneys are:

Michael A. Josephson
Andrew Dunlap
Lindsay R. Itkin
**FIBICH, LEEBRON, COPELAND,
BRIGGS & JOSEPHSON**
1150 Bissonnet Street
Houston, Texas 77005
Telephone: (713) 751-0025
Facsimile: (713) 751-0030
Toll-Free: 1-888-751-7050
E-mail: mjosephson@fibichlaw.com
E-mail: adunlap@fibichlaw.com
E-mail: litkin@fibichlaw.com

Richard J. (Rex) Burch
BRUCKNER BURCH PLLC
8 Greenway Plaza, Suite 1500
Houston, Texas 77046
Telephone: (713) 877-8788
Facsimile: (713) 877-8065
E-mail: rburch@brucknerburch.com

If you have any questions about the lawsuit, your rights, or the basis on which the attorneys expect to be paid, you may contact them directly. You may also contact any attorney of your choosing about the case. You should not contact the Court to discuss this matter.

If you elect to participate, please return the Consent Form to:

Overtime Lawsuit Against FTS International Services, LLC
c/o Richard J. (Rex) Burch
BRUCKNER BURCH PLLC
8 Greenway Plaza, Suite 1500
Houston, Texas 77046

Telephone: (713) 877-8788
Fax: (713) 877-8065
E-mail: rburch@brucknerburch.com

Plaintiff's attorneys will provide copies of any consent forms that they receive from persons opting into the lawsuit to FTSI's attorneys upon receipt.

If you select to be represented by other counsel, please return the Consent Form to:

Overtime Lawsuit Against FTS International Services, LLC
c/o Clerk of Court
U.S. District Court for the Western District of Texas—San Antonio Division
655 E. Cesar E. Chavez Blvd., Room G65
San Antonio, Texas 78206

5. EFFECT OF JOINING OR NOT JOINING

As already stated, you are not required to join in this case by filing your consent or take any action unless you want to. If you elect to opt-in to this lawsuit by filing this consent, you will become a party to the lawsuit. In doing so, you may be required to provide information about your job duties, job responsibilities, and work hours through discovery and may be required to provide testimony under oath. You will be bound by the judgment of the Court on all issues of the case, whether it is favorable or unfavorable to you, and you may be bound by the same fee and cost agreements as those Plaintiffs already represented by present counsel. The Court also has discretion to assess fees and costs among the participating Plaintiffs.

If you choose not to join this collective action by filing a notice of consent, you will not be entitled to any relief that may be obtained in this lawsuit if Plaintiffs win, including back wages for overtime. You will not be affected by any judgment, whether it is favorable or unfavorable to the Plaintiff, should you choose not to join.

6. YOUR TIME TO JOIN IS LIMITED

The signed Consent Form must be filed by _____, or you may lose the right to participate in any potential recovery obtained against Defendant in this lawsuit.

7. NO RETALIATION PERMITTED

The FLSA prohibits anyone, including FTSI, from discriminating or retaliating against you if you choose to take part in this case, or if you choose not to take part in this case.

This notice has been authorized by the Honorable Fred Biery, the Judge to whom this case has been assigned. The Court has not considered or made any decisions as to the merits of Plaintiff's claims or Defendant's defenses.

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Docket No. 5:14-cv-00393-FB

**COLLECTIVE ACTION
PURSUANT TO 29 U.S.C. § 216(b)**

CONSENT TO BECOME A PARTY PLAINTIFF

I, the undersigned, a sand coordinator, currently or formerly employed by Defendant FTS International Services, LLC, consent to be a party plaintiff in the above-captioned lawsuit, which is an action to recover unpaid overtime wages, liquidated damages, attorneys' fees, and costs.

Please print or type the following information:

Full Name

Address

Telephone Number

Signature/Date

City/State/Zip

E-mail Address

EXHIBIT B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
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STEPHEN AGNEW, Individually and for
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CASE NO. 5:14-cv-393-FB

COLLECTIVE ACTION

TELEPHONE SCRIPT IF THE POTENTIAL CLASS MEMBER ANSWERS

Hello, my name is _____ and I work for _____. I am calling to confirm you received a notice in the mail regarding the unpaid overtime lawsuit styled *Stephen Agnew Individually and On Behalf of Others Similarly Situated v. FTS International Services, LLC*. Have you received this notice by mail and/or e-mail?

If yes: Thank you, have a good day.

If no: What is the best method for me to send you the notice (i.e. mail/e-mail/fax)? This information will only be used to send you a copy of the notice. Thank you, have a good day.

If potential class member asks what the case is about: I cannot discuss the case with you. The notice that will be sent to you will provide information regarding the case. If you have additional questions, the notice explains your options for obtaining additional information.

Telephone Script for Messages (voicemail or otherwise):

Hello. This message is for [Name of Potential Class Member]. I am calling to confirm you received a notice in the mail regarding the unpaid overtime lawsuit styled *Stephen Agnew, Individually and On Behalf of Others Similarly Situated v. FTS International Services, LLC*. If you have not received the notice, please call _____ between the hours of _____ to provide the representative with your current contact information so that a notice can be sent to you. Any information you provide will only be used to send you the notice. Thank you and have a good day.